

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KARROW MCGUIRE, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CARL E. TORRENCE,

Respondent-Appellant,

and

SHEILA JACKSON,

Respondent.

UNPUBLISHED

July 19, 2005

No. 259330

Genesee Circuit Court

Family Division

LC No. 02-115304-NA

Before: O'Connell, P.J., and Schuette and Borrello, JJ.

PER CURIAM..

Respondent-appellant appeals as of right from an order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(a)(ii), (c)(i), (g), (h), and (j). We affirm.

I. FACTS

While respondent was imprisoned, the child and his siblings were abandoned by their mother over a period of three days. Respondent is serving a sentence for delivery and manufacturing of cocaine. He began serving his sentence in 1997 when the child was aged four years. His earliest release date is December 12, 2005 with a maximum discharge date in 2029. In August 2003, a permanency planning hearing took place. At the time, the mother was in compliance with her parent-agency agreement and the ultimate plan was to place the children with her. Respondent was unavailable to participate via teleconference.

In February 2004, the mother was no longer in compliance with the case plan and her visitation was suspended. Respondent did not participate in the hearing and the FIA was authorized to file a termination petition.

A caseworker testified that there was no relationship between the child and respondent. He had not received any type of correspondence from respondent for the child and the child did not speak favorably of respondent. Respondent claimed that before he went to prison he had parenting time with the child, though he did not live with him. After respondent learned his parental rights might be terminated, he suggested the child live with his wife and two children.

In the interest of giving the child permanence in his life, the referee signed the order for termination of parental rights. The referee found, while in prison, other than taking parenting classes, respondent would be unable to comply with the case service plan. Also, because children are not sent to prisons to visit with their parents, respondent would not have had an opportunity to establish any kind of relationship with the child. The referee doubted that any relationship existed before respondent went to prison or that the child knew respondent's wife. The trial court adopted the order on October 26, 2004.

II. STANDARD OF REVIEW

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520, reh den 460 Mich 1205 (1999). If a statutory ground for termination is established, the trial court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). On appeal from termination of parental rights proceedings, this Court reviews the trial court's findings under the clearly erroneous standard. MCR 3.977(J); *Sours, supra*, 459 Mich at 633. A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216, reh den 468 Mich 1239 (2003); *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989). To be clearly erroneous, a decision must be more than maybe or probably wrong. *Sours, supra*, 459 Mich at 633. Further, regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *Miller, supra*, 433 Mich at 337.

III. ANALYSIS

A. Termination of Parental Rights

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The evidence demonstrated that respondent-appellant was serving a prison sentence on a drug conviction. His earliest release date was December 12, 2005, but there was a possibility he would remain in prison until 2029. Respondent-appellant was unable to participate in a treatment plan because of his incarceration. There was no evidence that respondent-appellant paid child support. He was not in a position to personally care for the child and took no steps to suggest a proper placement until just before the termination trial.

B. Best Interest of Child

Additionally, the evidence did not show that termination of respondent-appellant's parental rights was not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). There was nothing in the record to suggest that any bond existed between respondent-appellant and the child, who was four when respondent-appellant was imprisoned. Thus, the trial court did not err in terminating respondent-appellant's parental rights to the child.

Affirmed.

/s/ Peter D. O'Connell

/s/ Bill Schuette

/s/ Stephen L. Borrello